

UNITED STATES STEEL CORPORATION

Docket 8655. Order, Sept. 25, 1970

Order reopening case and remanding it to hearing examiner for receipt of evidence with respect to four issues pursuant to a decision of the Court of Appeals, Sixth Circuit.

ORDER REOPENING PROCEEDING AND REMANDING CASE TO HEARING
EXAMINER

The United States Court of Appeals for the Sixth Circuit issued on May 6, 1970 [8 S. & D. 1154], its opinion and order remanding the above-entitled cause for further findings of fact and further proceeding in light of the Supreme Court's holding in *Citizen Publishing Co. v. United States*, 394 U.S. 131 (1969), as well as the views of the Court of Appeals set forth in its opinion.

It is therefore ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the matter be, and it hereby is, remanded to Hearing Examiner Lewis to begin hearings, in accordance with the opinion of the Court of Appeals, for the purpose of receiving evidence (including testimony of witnesses who have heretofore testified) with respect to the issues of whether

(a) as of January 1963 the financial condition and resources of Certified Industries were so dire that it faced the grave probability of a business failure,

(b) between January 1963 and April 1964 no prospective purchaser other than United States Steel Corporation was interested in acquiring Certified,

(c) "Certified's opportunity for some form of continued competitive vitality through bankruptcy or similar proceedings" was "dim or non-existent" either in January 1963 or in April 1964, and

(d) the U.S. Steel-Certified vertical ties did in fact take an unlawful cast as early as January 1963.

It is further ordered, That upon termination of the hearings the hearing examiner shall on the basis of the entire record, enter his initial decision confined to the issues hereinabove specified which shall be subject to review by the Commission under Subpart F of Part 3 of the Commission's Rules of Practice.